

FITAPELLI & SCHAFFER, LLP

Joseph A. Fitapelli (JF 9058)
Brian S. Schaffer (BS 7548)
Eric J. Gitig (EG 7399)
475 Park Avenue South
12th Floor
New York, NY 10016
Telephone: (212) 300-0375

BERKE-WEISS & PECHMAN LLP

Louis Pechman (LP 6395)
N. Marely Mercado (NM 1783)
488 Madison Avenue
11th Floor
New York, New York 10022
Telephone: (212) 583-9500

**JOSEPH, HERZFELD, HESTER &
KIRSCHENBAUM, LLP**

D. Maimon Kirschenbaum (MK 2338)
Matthew D. Kadushin (MK1968)
233 Broadway
5th Floor
New York, New York 10279
Telephone: (212) 688-5640

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

**AHMED CHHAB, KATHRYN SHRADER, LANCE
FELDHUN, MICHAEL RELLA, VINCENT ANTHONY
BORELAND, and ADRIANNE BENZION on behalf of
themselves and all others similarly situated,**

Plaintiffs,

-against-

**DARDEN RESTAURANTS, INC., GMRI, INC.,
CAPITAL GRILLE HOLDINGS, INC. d/b/a THE
CAPITAL GRILLE, and RARE HOSPITALITY
INTERNATIONAL, INC.,**

Defendants.

**11 Civ. 8345 (NRB)
(JLC)**

**DECLARATION OF JOSEPH A. FITAPELLI
IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY CERTIFICATION
PURSUANT TO THE FAIR LABOR STANDARDS ACT, FOR COURT-AUTHORIZED
NOTICE TO SIMILARLY SITUATED PERSONS, AND FOR EXPEDITED DISCOVERY**

JOSEPH A. FITAPELLI affirms under the penalties of perjury as follows:

1. I am a member of the bar of this Court and a partner of Fitapelli & Schaffer, LLP, attorneys for Plaintiffs Ahmed Chhab, Kathryn Shrader, Lance Feldhun, Michael Rella, Vincent Anthony Boreland, and Adrienne Benzion ("Plaintiffs") and putative class members. As such, I am familiar with all of the facts and circumstances of this action.

2. I submit this Declaration to place before the Court certain facts and documents relied upon by Plaintiffs in their motion for conditional class certification, court-authorized notice, and expedited discovery, pursuant to 29 U.S.C. § 216(b).

3. Attached hereto as **Exhibit A** is a true and correct copy of Plaintiffs' Amended Class Action Complaint.

4. Attached hereto as **Exhibit B** is a true and correct copy of excerpts from the deposition of Brian Foye.

5. Attached hereto as **Exhibit C** is a true and correct copy of excerpts from Darden Restaurants Inc. Form 10-K, filed 7/20/12, for the period ending 5/27/12.

6. Attached hereto as **Exhibit D** is a true and correct copy of the CG Ticker Tape.

7. Attached hereto as **Exhibit E** is a true and correct copy of excerpts from the deposition of Thomas Gathers.

8. Attached hereto as **Exhibit F** is a true and correct copy of excerpts from the deposition of Jill Dickstein.

9. Attached hereto as **Exhibit G** is a true and correct copy of excerpts from the deposition of Melissa Trumbull.

10. Attached hereto as **Exhibit H** is a true and correct copy of excerpts from the deposition of Armin Ahrabinejad.

11. Attached hereto as **Exhibit I** is a true and correct copy of excerpts from the deposition of Randy Cook.

12. Attached hereto as **Exhibit J** is a true and correct copy of excerpts from the deposition of James Zemlock.

13. Attached hereto as **Exhibit K** is a true and correct copy of excerpts from the deposition of Ahmed Chhab.

14. Attached hereto as **Exhibit L** is a true and correct copy of excerpts from the deposition of DaJuan White.

15. Attached hereto as **Exhibit M** is a true and correct copy of excerpts from the deposition of Crystal Beng.

16. Attached hereto as **Exhibit N** is a true and correct copy of excerpts from the deposition of Tasiya Oliver.

17. Attached hereto as **Exhibit O** is a true and correct copy of excerpts from the deposition of Haley Duke.

18. Attached hereto as **Exhibit P** is a true and correct copy of excerpts from the deposition of James Hamilton.

19. Attached hereto as **Exhibit Q** is a true and correct copy of excerpts from the Capital Grille Server/Bartender Manual.

20. Attached hereto as **Exhibit R** is a true and correct copy of the Standardized “One Best Way” Tip Share Program Rollout Guide.

21. Attached hereto as **Exhibit S** is a true and correct copy of excerpts from the deposition of Mark Wirnowski.

22. Attached hereto as **Exhibit T** is a true and correct copy of New York City – 42nd Street “Side Work” Guidelines.

23. Attached hereto as **Exhibit U** is a true and correct copy of New York City – 51st Street “Side Work” Guidelines.

24. Attached hereto as **Exhibit V** is a true and correct copy of New York City – Wall Street “Side Work” Guidelines.

25. Attached hereto as **Exhibit W** is a true and correct copy of Tampa, Florida “Side Work” Guidelines.

26. Attached hereto as **Exhibit X** is a true and correct copy of Orlando, Florida “Side Work” Guidelines.

27. Attached hereto as **Exhibit Y** is a true and correct copy of Indianapolis, Indiana “Side Work” Guidelines.

28. Attached hereto as **Exhibit Z** is a true and correct copy of Charlotte, North Carolina “Side Work” Guidelines.

29. Attached hereto as **Exhibit AA** is a true and correct copy of Phoenix, Arizona “Side Work” Guidelines.

30. Attached hereto as **Exhibit BB** is a true and correct copy of the declaration of Amy Smith.

31. Attached hereto as **Exhibit CC** is a true and correct copy of an e-mail regarding “side work” procedures for butter.

32. Attached hereto as **Exhibit DD** is a true and correct copy of excerpts from the deposition of Amy Mitchell.

33. Attached hereto as **Exhibit EE** is a true and correct copy of excerpts from the deposition of Michael Rella.

34. Attached hereto as **Exhibit FF** is a true and correct copy of excerpts from the deposition of Vincent Anthony Boreland.

35. Attached hereto as **Exhibit GG** is a true and correct copy of excerpts from the deposition of Adrienne Benzion.

36. Attached hereto as **Exhibit HH** is a true and correct copy of excerpts from the deposition of Kathryn Shrader.

37. Attached hereto as **Exhibit II** is a true and correct copy of excerpts from the deposition of Lance Feldhun.

38. Attached hereto as **Exhibit JJ** is a true and correct copy of excerpts from the deposition of Rebecca Ledwell.

39. Attached hereto as **Exhibit KK** is a true and correct copy of the Universal Side Work Policy.

40. Attached hereto as **Exhibit LL** is a true and correct copy of e-mails regarding a Polisher in the tip pool at Capital Grille restaurants.

41. Attached hereto as **Exhibit MM** is a true and correct copy of the Capital Grille Recommitment 2011 – 2012 USA.

42. Attached hereto as **Exhibit NN** is a true and correct copy of an e-mail from Joseph Rossi regarding the Safe and Secure policy.

43. Attached hereto as **Exhibit OO** is a true and correct copy of an e-mail from Ron Adelman regarding the Safe and Secure policy.

44. Attached hereto as **Exhibit PP** is a true and correct copy of excerpts from the deposition of John Mirabal.

45. Attached hereto as **Exhibit QQ** is a true and correct copy of an e-mail from Chad Orth regarding an employee working off the clock.

46. Attached hereto as **Exhibit RR** is a true and correct copy of an e-mail from James Hamilton regarding overtime hours at the Tampa, Florida Capital Grille.

47. Attached hereto as **Exhibit SS** is a true and correct copy of Plaintiffs' proposed Judicial Notice.

48. Attached hereto as **Exhibit TT** are true and correct copies of Plaintiffs' proposed Reminder Letter.

Dated: New York, New York
October 25, 2012

Respectfully submitted,

FITAPELLI & SCHAFFER, LLP

By:

/s/ Joseph A. Fitapelli

Joseph A. Fitapelli

FITAPELLI & SCHAFFER, LLP

Joseph A. Fitapelli

Brian S. Schaffer

Eric J. Gitig

475 Park Avenue South, 12th Floor

New York, New York 10016

Telephone: (212) 300-0375

*Attorneys for Plaintiff and
the Putative Class*